



Appeal Decision

Site visit made on 14 June 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2022

Appeal Ref: APP/P1940/W/21/3279645

Bucks Hill Farm, Bucks Hill, Kings Langley WD4 9AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by EE (UK) Ltd against the decision of Three Rivers District Council.
 - The application Ref 21/0788/FUL, dated 22 March 2021, was refused by notice dated 7 June 2021.
 - The development proposed is described as an 18m High Swann 30H Lattice Tower to be installed on new concrete base and associated ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for an 18m High Swann 30H Lattice Tower to be installed on new concrete base and associated ancillary works at Bucks Hill Farm, Bucks Hill, Kings Langley WD4 9AP 9 in accordance with the terms of the application, Ref 21/0788/FUL, dated 22 March 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
ESN40153/70881 01, ESN40153/70881 01A, ESN40153/70881 01B, ESN40153/70881 01C, ESN40153/70881 02, ESN40153/70881 02A, ESN40153/70881 02B, ESN40153/70881 02C, ESN40153/70881 03, ESN40153/70881 04, ESN40153/70881 04A, ESN40153/70881 04B, ESN40153/70881 04C and ESN40153/70881 05.
 - 3) Prior to any works above ground level the proposed colour of the mast, ancillary equipment and fencing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be finished and maintained in accordance with the approved details.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form which differs from that on the Council's decision notice. In Part E of the appeal form it is stated that the description of development has not changed and neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main issues are:

- Whether or not the proposal would be inappropriate development in the Green Belt;
- The effect of the proposal upon the openness of the Green Belt;
- The effect of the proposal upon the character and appearance of the area; and
- If the proposal would be inappropriate development, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

4. The appeal site is in the Green Belt. Paragraph 149 of The National Planning Policy Framework (the Framework) and Policy DM2 of the Three Rivers District Council Development Management Policies Local Development Document adopted July 2013 (the LDD) states that the construction of new buildings in the Green Belt is inappropriate development unless one of the specified exceptions apply.
5. The term 'building' is defined under Section 336 of the Town and Country Planning Act 1990 to include any structure or erection. The proposed lattice tower and ancillary development should therefore be regarded as buildings for the purposes of this assessment.
6. The proposal would not meet any of the inappropriate development exceptions set out in Policy DM2 or the Framework and I have not been made aware of any other reason why it would not be inappropriate in the Green Belt.
7. Consequently, the proposal would be inappropriate development in the Green Belt conflicting with Policy CP11 of the Three Rivers District Council Core Strategy adopted October 2011 (the CS), Policy DM2 of the LDD and paragraph 149 of the Framework in so far as these identify inappropriate development in the Green Belt.

Openness

8. Paragraph 137 of the Framework states, amongst other things, that the essential characteristics of Green Belts are their openness and their permanence. This paragraph also confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Policy CP11 of the CS is also broadly consistent with the Framework in this regard.
9. While the proposed development would be likely to be partially screened by trees, it would still be visible from adjoining land. Additionally, trees can lose leaf in the Autumn and even if they are evergreen, they may not remain in perpetuity. While public views of the proposal would be limited to a degree and it has an open lattice design, the proposed development would replace an

otherwise undeveloped site and would have a visual presence when viewed from adjoining land. Consequently, the proposal would lead to a loss of Green Belt openness in a visual and spatial sense.

10. For the above reasons, the proposal would cause substantial harm to the openness of the Green Belt. It therefore conflicts with Policy CP11 of the CS, Policy DM2 of the LDD and the Framework in so far as these establish that the essential characteristics of Green Belts are their openness and their permanence.

Character and Appearance

11. The appeal site is positioned at the edge of an open field located a reasonable distance from existing buildings. The immediate area features rolling countryside and agricultural fields with a predominantly open and rural character. A limited number of buildings are scattered in the wider area with electricity cables and pylons also evident on nearby land, however, overall the area has a verdant and rural character and appearance.
12. The proposal would introduce an imposing 18 metre high, manufactured tower, supporting equipment and fencing to an otherwise undeveloped site. I note that the proposal would be sited to the edge of a field with an open lattice design to aid views through it. I also observed that the land does undulate, and public footpaths are not immediately adjacent to proposed tower. However, its engineered design and its height means that it would nevertheless be a prominent and incongruous feature within the rural landscape. As indicated above, the presence of trees would only partially screen the proposal and their long-term retention cannot be guaranteed.
13. While I note electricity pylons cross on adjoining land, these structures have a jarring presence within the broader rural landscape and their existence does not justify the further harm as proposed. For the same reasons the existence of telecoms masts elsewhere in rural areas does not necessarily mean that such development is always compatible with the rural landscape.
14. Accordingly, I find conflict with the relevant provisions of Policy CP1 of the CS and Policy DM14 of the LDD which, amongst other things, seek to ensure that development protects the character and appearance of the area.

Other Considerations

15. The appellant states that mobile phone signal availability at the roadside within the immediate area is incomplete and that the proposal delivers a public benefit to the communications network for both the Emergency Services Network (ESN) and connectivity for those working, living, and visiting the area.
16. The appellant has submitted some evidence that outlines the locations which currently have incomplete ESN coverage which includes data coverage from OFCOM mapping. The appellant also explains that drive tests were conducted, however, I have not been supplied with any data regarding what the drive testing entailed or the detailed results of this testing.

17. Nevertheless, paragraph 118 of the Framework is clear that decision makers should not question the need for an electronic communications system. From the evidence before me, any lack of connectivity would hamper the emergency services. On this basis the need for the emergency services to be able to easily access the ESN in this location carries great weight in favour of the development proposal.
18. The appellant also suggests that communications infrastructure could be erected under permitted development rights. However, I have only been provided with limited information as to how such development would comply with the General Permitted Development Order and limited evidence that any fall-back position has a real prospect of being implemented. I therefore ascribe this limited weight.

Other Matters

19. The appellant states that other locations have been considered and discounted for the proposed tower and associated equipment. Addresses and reasons for eliminating alternative sites are also provided. In this respect, I am satisfied that alternative sites and mast sharing has been considered and discounted.

Conditions

20. I have considered the conditions put forward by the Council and other parties against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity.
21. It is necessary that the development is be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty [2]. Given the rural character and Green Belt location it is also necessary for a condition to agree materials [3].
22. I have not imposed the Council's suggested 'Construction Management Plan' condition having regard to the scale of the proposal as such a condition would be overly onerous and not reasonably related.

Planning Balance and Conclusion

23. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. Moreover, it would lead to a substantial loss of openness to the Green Belt. I have also found that the proposal would harm the character and appearance of the area, a matter which attracts substantial weight.
24. The other considerations in this case, include the need for the emergency services to reliably access the ESN and the economic and social benefits brought about by improved digital communications networks. When these considerations are combined, they attract great weight in favour of the proposal.

25. These considerations in combination would clearly outweigh the harm identified to the Green Belt (including harm derived from loss of openness), and the harm I have identified to the character and appearance of the area. Consequently, these other considerations amount to the very special circumstances necessary to justify the proposal.
26. The scheme conflicts with the development plan and the Framework when read as a whole, however, the material considerations identified outweigh that conflict. For the reasons given above I conclude that the appeal should be allowed.

N Praine

INSPECTOR